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Testimony of Martha Brecher
On Behalf of the Statewide Parent Advocacy Network (SPAN)
before the New Jersey State Board of Education
May 17, 2005
N.J.A.C. 6A:14 – 1 et seq.

Good afternoon. My name is Martha Brecher. I am the Legal Director of the Statewide Parent Advocacy Network and the adoptive parent of a 12 year old boy who has multiple disabilities. I have also served as an educational surrogate parent for 10 children throughout the State of NJ, ranging in age from 4 months to 16 years old, and have participated as a member of either an IFSP or IEP Team for each of them. In the past year, I have attended more than a dozen IEP meetings.

Given the time constraints on testimony, I will only address a few issues set forth in the proposed revisions to the special education regulations embodied in the Administrative Code.

First: We are delighted that the Department of Education has recommended maintenance of individualized short term objectives and benchmarks for all students who have IEPs. This requirement, linked to collaborative training of professionals and parents on proper drafting of individualized annual goals and short-term goals and objectives, will enable measurement of progress during the school year. This requirement is the linchpin for creating useful IEPs that foster solid educational planning and accountability. We commend you for retaining this requirement in the Code and urge the Department of Education to embark on meaningful training of school personnel AND parents of children with disabilities so that all members of the IEP Team can truly collaborate in designing meaningful programs for children in need of special education.

Second: We are pleased that the Department's proposal to permit amendment of an IEP without a meeting protects parents by either permitting the parent to make a written proposal to amend and the district agrees, or permitting the district to amend only if the parent consents in writing within 15 days and the district provides the amended IEP within 15 days of parental consent. This measure fairly balances parents' need for protection and districts' interest in eliminating full-blown meetings of the entire IEP Team.

Third: SPAN lauds the Department for considering public comments and revising the Code proposal to allow districts to suspend students for a maximum of 45 calendar days, rather than 45 calendar days. To do otherwise would have subjected students most in need of services to a suspension of a full school quarter, ensuring their failure when returning to their home school. We are concerned, however about the absence of a requirement that a school require consideration of LRE when determining what a student's Interim Alternative Educational placement should be. We also believe that the Code should contain an explicit requirement that the student must continue to receive all related services prescribed by the student's IEP during the suspension period.

Fourth: We continue to be concerned about the scope of information that should be required from an IEP Team member who wishes to be excused from a meeting. The Department does not want to require that Team member to specify the students' present levels of performance in the teacher's area of instruction, to describe the student's progress and the means by which progress was measured, and to identify learning strategies that worked and that might be useful for the student's next teacher to know about.

In the absence of those requirements, here is an example of the type of information that a core curriculum subject teacher may provide:

"Joe is polite and cooperative in class. He is very outgoing and sincere. Joe is a good test-taker with the assistance of his personal aide, Mrs. X. However, Joe asks to go to the bathroom and/or get a drink everyday in class. At times, he has difficulty getting along with other students."

Does this PLEP provide the parent with any information about the child's progress with the curriculum? About the grade level at which the child is performing? About the successful and unsuccessful strategies the teacher used to address the issues he's describing? And, in the absence of this teacher from the IEP meeting, how does the Team obtain useful planning information from this teacher?

Similarly, here is a PLEP prepared for a high school student, purportedly being instructed in the 9th and 10th grade core curriculum standards, but whose reading and math abilities were evaluated as being at about the 3d grade level:

"In Science, Jane does well in class, but poorly in tests since she does not study. She reports that she sometimes has difficulty following the teacher because she "talks too fast." She is doing fair in English and Math. She is easily distracted."

Do we have any idea how the student is being instructed at the high school level? What is "fair" performance in English and Math? Has the student progressed during the school year? In fact, it was only through totally separate objective testing in these areas that was not included in the IEP that we learned that the student had made absolutely no progress at the school during the entire school year.

All teachers should be required to provide this type of information in their PLEPs to give parents and other Team members information that is essential for informed educational planning. Certainly a teacher who will not be available for discussion at the IEP meeting must be held to this standard so that the whole Team understands what has been happening in that teacher's classroom during the prior year.

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SPAN's written comments on the proposed Code revisions will be far more extensive. We hope you will consider them carefully.

Thank you for the opportunity to speak before you this afternoon.